



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211 and 252

[Docket DARS-2019-0022]

RIN 0750-AK42

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Provision Regarding Availability of Specifications and Standards Not Listed in the Acquisition Streamlining and Standardization Information System (DFARS Case 2019-D007)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a clause that is no longer necessary.

DATES: Effective **[Insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571-372-6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove DFARS clause 252.211-7001, Availability of Specifications, Standards, and Data Item

Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents, and the associated clause prescription at DFARS 211.204(c)(i). When solicitations identify requirements documents, FAR 11.201 requires the documents to be furnished with the solicitation or the solicitation to include specific instructions for obtaining or examining such documents.

DFARS provision 252.211-011 is included in solicitations that require the use of specifications, standards, and data item descriptions that are not listed in the ASSIST database. The provision provides offerors with the name and address of the activity from which the offeror can obtain a copy of the applicable documents, upon request. As implemented, the clause was intended for use in situations where the documents were not attached to the solicitation and an offeror could request a copy of the documents by mail.

DFARS provision 252.211-7002, Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions and Other Pertinent Documents, is also available for use in solicitations that require the use of specifications, standards, and data item descriptions not listed in the ASSIST database. The text of DFARS provision 252.211-7002 notifies offerors that the documents are unavailable for distribution (as an attachment to

the solicitation) and includes a blank, to be completed by the contracting officer, to provide a physical address, email address, or name and phone number where the documents can be requested and/or obtained. It is no longer necessary to have two different provisions to communicate how or where an offeror can obtain or view documents associated with a solicitation. As such, DFARS provision 252.211-7001 is no longer necessary and can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the *Federal Register* at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on these provisions. The DoD Task Force reviewed the requirements of DFARS provision 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information

System (ASSIST), and Plans, Drawings, and Other Pertinent Documents, and determined that the DFARS coverage was unnecessary and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only removes obsolete DFARS provision 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of

the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is merely removing an obsolete clause from the DFARS.

IV. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 211—DESCRIBING AGENCY NEED

2. Revise section 211.204 to read as follows:

211.204 Solicitation provisions and contract clauses.

(c) When contract performance requires use of specifications, standards, and data item descriptions that are not listed in the Acquisition Streamlining and Standardization Information System database, use a provision, as appropriate, substantially the same as 252.211-7002, Availability for Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions, and Other Pertinent Documents.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211-7001 [Removed and Reserved]

3. Remove and reserve section 252.211-7001.

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